



March 23, 2007

ENGROSSED SENATE BILL No. 122

DIGEST OF SB 122 (Updated March 21, 2007 4:12 pm - DI 69)

Citations Affected: IC 35-42; noncode.

Synopsis: Battery by body waste. Provides that it is battery by body waste, a Class D felony, for a person to place body fluid or waste on: (1) an adult or child protective services caseworker; (2) a firefighter; (3) an employee of a probation department; (4) a first responder; or (5) a person whose duties include the supervision of lawfully detained persons. Provides enhanced penalties if the body waste is infected with hepatitis C.

Effective: July 1, 2007.

Drozda, Lanane, Tallian, Becker

(HOUSE SPONSORS — LAWSON L, KOCH)

January 8, 2007, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 25, 2007, amended, reported favorably — Do Pass.

January 29, 2007, read second time, ordered engrossed. Engrossed.

January 30, 2007, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

March 6, 2007, read first time and referred to Committee on Courts and Criminal Code.

March 22, 2007, amended, reported — Do Pass.

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March 23, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 122

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-42-2-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) **As used in this**
3 **section, "caseworker" means a person who is employed by or**
4 **under contract with the division of aging or the department of**
5 **child services whose professional duties include:**

6 (1) **providing ongoing adult or child protective services or**
7 **protective services investigations or assessments; or**

8 (2) **regularly:**

9 (A) **conducting interviews, visits, or contacts in the homes**
10 **of; or**

11 (B) **providing transportation services for or other services**
12 **in the homes of;**

13 **family members involved in adult or child protective services.**

14 (b) **As used in this section, "corrections officer" includes a person**
15 **employed by:**

16 (1) **the department of correction;**

17 (2) **a law enforcement agency;**

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(3) a county jail; or

(4) a circuit, superior, county, probate, city, or town court;

(5) a probation department; or

(6) a facility operated by or on behalf of a county or the state, if the person's responsibilities include the daily or ongoing supervision and care of persons who are lawfully detained (as defined in IC 35-41-1-18).

~~(b)~~ (c) As used in this section, "firefighter" means a person who is a:

(1) full-time, salaried firefighter;

(2) part-time, paid firefighter; or

(3) volunteer firefighter (as defined in IC 36-8-12-2).

(d) As used in this section, "first responder" means a person who:

(1) is certified under IC 16-31 and who meets the Indiana emergency medical services commission's standards for first responder certification; and

(2) responds to an incident requiring emergency medical services.

(e) As used in this section, "human immunodeficiency virus (HIV)" includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.

~~(e)~~ (f) A person who knowingly or intentionally in a rude, insolent, or angry manner places blood or another body fluid or waste on a law enforcement officer, **caseworker, firefighter, first responder**, or a corrections officer identified as such and while engaged in the performance of official duties or coerces another person to place blood or another body fluid or waste on the law enforcement officer, **caseworker, firefighter, first responder**, or corrections officer commits battery by body waste, a Class D felony. However, the offense is:

(1) a Class C felony if the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with:

(A) hepatitis B **or hepatitis C**;

(B) HIV; or

(C) tuberculosis;

(2) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with hepatitis B **or hepatitis C** and the offense results in the transmission of hepatitis B **or hepatitis C** to the other person; or

(B) the person knew or recklessly failed to know that the

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- 1 blood, bodily fluid, or waste was infected with tuberculosis
 2 and the offense results in the transmission of tuberculosis to
 3 the other person; and
 4 (3) a Class A felony if:
 5 (A) the person knew or recklessly failed to know that the
 6 blood, bodily fluid, or waste was infected with HIV; and
 7 (B) the offense results in the transmission of HIV to the other
 8 person.
 9 ~~(d)~~ (g) A person who knowingly or intentionally in a rude, an
 10 insolent, or an angry manner places human blood, semen, urine, or
 11 fecal waste on another person commits battery by body waste, a Class
 12 A misdemeanor. However, the offense is:
 13 (1) a Class D felony if the person knew or recklessly failed to
 14 know that the blood, semen, urine, or fecal waste was infected
 15 with:
 16 (A) hepatitis B **or hepatitis C**;
 17 (B) HIV; or
 18 (C) tuberculosis;
 19 (2) a Class C felony if:
 20 (A) the person knew or recklessly failed to know that the
 21 blood, semen, urine, or fecal waste was infected with hepatitis
 22 B **or hepatitis C** and the offense results in the transmission of
 23 hepatitis B **or hepatitis C** to the other person; or
 24 (B) the person knew or recklessly failed to know that the
 25 blood, semen, urine, or fecal waste was infected with
 26 tuberculosis and the offense results in the transmission of
 27 tuberculosis to the other person; and
 28 (3) a Class B felony if:
 29 (A) the person knew or recklessly failed to know that the
 30 blood, semen, urine, or fecal waste was infected with HIV; and
 31 (B) the offense results in the transmission of HIV to the other
 32 person.
 33 SECTION 2. [EFFECTIVE JULY 1, 2007] **IC 35-42-2-6, as**
 34 **amended by this act, applies only to offenses committed after June**
 35 **30, 2007.**

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SENATE MOTION

Madam President: I move that Senators Lanane and Tallian be added as coauthors of Senate Bill 122.

DROZDA

 COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 122, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 7, after "court;" delete "or", begin a new line block indented and insert:

"(5) a probation department; or".

Page 1, line 8, delete "(5)" and insert **"(6)".**

Page 1, line 12, after "(b)" insert **"As used in this section, "firefighter" means a person who is a:**

(1) full-time, salaried firefighter;

(2) part-time, paid firefighter; or

(3) volunteer firefighter (as defined in IC 36-8-12-2).

(c) As used in this section, "first responder" means a person who:

(1) is certified under IC 16-31 and who meets the Indiana emergency medical services commission's standards for first responder certification; and

(2) responds to an incident requiring emergency medical services.

(d)".

Page 1, line 15, strike "(c)" and insert **"(e)".**

Page 1, line 17, after "enforcement officer" insert **", firefighter, first responder,"**.

Page 1, line 17, strike "a".

Page 2, line 3, before "or" insert **", firefighter, first responder,"**.

Page 2, line 7, after "hepatitis B" delete "; " and insert **"or hepatitis C;"**.

Page 2, line 12, after "hepatitis B" insert **"or hepatitis C".**

Page 2, line 13, after "hepatitis B" insert **"or hepatitis C".**

Page 2, line 24, strike "(d)" and insert **"(f)".**

Page 2, line 31, after "hepatitis B" delete "; " and insert **"or hepatitis**

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Page 2, line 37, before "and" insert "**or hepatitis C**".

Page 2, line 37, after "hepatitis B" insert "**or hepatitis C**".

and when so amended that said bill do pass.

(Reference is to SB 122 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senator Becker be added as coauthor of Engrossed Senate Bill 122.

DROZDA

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 122, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 2, after "(a)" insert "**As used in this section, 'caseworker' means a person who is employed by or under contract with the division of aging or the department of child services whose professional duties include:**

(1) providing ongoing adult or child protective services or protective services investigations or assessments; or

(2) regularly:

(A) conducting interviews, visits, or contacts in the homes of; or

(B) providing transportation services for or other services in the homes of;

family members involved in adult or child protective services.

(b)".

Page 1, line 9, after "by" insert "**or on behalf of**".

Page 1, line 13, strike "(b)" and insert "**(c)**".

Page 2, line 1, delete "(c)" and insert "**(d)**".

Page 2, line 8, delete "(d)" and insert "**(e)**".

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Page 2, line 11, delete "(e)" and insert "(f)".

Page 2, line 13, after "officer," insert "**caseworker**".

Page 2, line 16, after "officer," insert "**caseworker**".

Page 2, line 38, delete "(f)" and insert "(g)".

and when so amended that said bill do pass.

(Reference is to SB 122 as printed January 26, 2007.)

HOY, Chair

Committee Vote: yeas 12, nays 0.

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